

**Before the
Federal Communications Commission
Washington, DC 20554**

In the Matter of)	
)	
Request for Waiver by)	
)	
Fredonia-Moccasin School District No. 6)	File No. SLD-262818
Fredonia, Arizona)	
)	
Schools and Libraries Universal Service)	CC Docket No. 02-6
Support Mechanism)	

ORDER

Adopted: February 24, 2004

Released: February 25, 2004

By the Telecommunications Access Policy Division, Wireline Competition Bureau:

1. The Telecommunications Access Policy Division has under consideration a Request for Waiver filed by Fredonia-Moccasin School District No. 6, Fredonia, Arizona (Fredonia).¹ Fredonia requests a waiver of the Commission's rules governing the schools and libraries universal service support mechanism, specifically, the filing window deadline for Funding Year 2001. For the reasons set forth below, we deny the Waiver Request.

2. The record shows that Fredonia's FCC Form 470 was posted on December 9, 2000.² In its Waiver Request, Fredonia argues that the Schools and Libraries Division of the Universal Service Administrative Company delayed in mailing the Receipt Notification Letter (RNL), which, in turn, caused Fredonia to submit its Form 471 application after the filing deadline.³ Consequently, SLD cancelled Fredonia's request for funding.⁴ Fredonia now asks for a waiver of the filing window deadline from the Commission.⁵

¹ Letter from Steven L. Winward, Fredonia-Moccasin Unified School District No. 6, to Federal Communications Commission, filed December 5, 2001 (Waiver Request). Section 54.719(c) of the Commission's rules provides that any person aggrieved by an action taken by a division of the Universal Service Administrative Company (Administrator) may seek review from the Commission. 47 C.F.R. § 54.719(c).

² Letter from Schools and Libraries Division, Universal Service Administrative Company, to Steven L. Winward, Fredonia-Moccasin Unified School District No. 6, dated December 11, 2000 (Receipt Notification Letter or RNL).

³ Waiver Request; FCC Form 471, Fredonia-Moccasin Unified School District No. 6, filed January 29, 2001.

⁴ Waiver Request.

⁵ *Id.*

3. Waiver is appropriate if special circumstances warrant a deviation from the general rule, and such deviation would better serve the public interest than strict adherence to the general rule.⁶ We do not believe the particular facts of this case rise to the level of special circumstances required for a deviation from the general rule. Although the Bureau has waived the filing deadline for Forms 471 in cases where SLD either failed to post a properly submitted Form 470 that did not necessitate conflict resolution, or excessively delayed before notifying an applicant of problems with a Form 470, such circumstances are not present here.⁷ We believe Fredonia, and applicants in general, should be proactive in resolving any issues associated with their respective funding requests. In this regard, Fredonia could have either (1) contacted the SLD *before* the filing window had closed to inquire about the status of its Form 470 and/or Form 470 RNL; or (2) checked the website to make certain that its Form 470 had been posted. The Bureau has consistently held that it is the applicant who has responsibility ultimately for the timely submission of the application.⁸ Fredonia's Request for Waiver is therefore denied.

4. ACCORDINGLY, IT IS ORDERED, pursuant to authority delegated under sections 0.91, 0.291, 1.3, and 54.722(a) of the Commission's rules, 47 C.F.R. §§ 0.91, 0.291, 1.3 and 54.722(a), that the Waiver Request filed by Fredonia-Moccasin Unified School District No. 6 on December 5, 2001 IS DENIED.

FEDERAL COMMUNICATIONS COMMISSION

Narda M. Jones
Deputy Chief, Telecommunications Access Policy Division
Wireline Competition Bureau

⁶ *Northeast Cellular Telephone Co. v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir. 1990) (*Northeast Cellular*); *see also WAIT Radio v. FCC*, 418 F.2d 1153, 1159 (D.C. Cir. 1969) (stating that the Commission may take into account considerations of hardship, equity, or more effective implementation of overall policy on an individual basis), *cert. denied*, 409 U.S. 1027 (1972).

⁷ *See, e.g., Request for Review by Council Bluffs Community Schools, Federal-State Joint Board on Universal Service, Changes to the Board of Directors of the National Exchange Carrier Association, Inc.*, File No. E007282, CC Docket Nos. 96-45 and 97-21, Order, 15 FCC Rcd 18836 (Com. Car. Bur. 1999) (SLD failed to post applicant's FCC Form 470); *Request for Review by Lettie W. Jensen Library, Federal-State Joint Board on Universal Service, Changes to the Board of Directors of the National Exchange Carrier Association, Inc.*, File Nos. 220549, 220586, CC Docket Nos. 96-45 and 97-21, Order, 18 FCC Rcd 5466 (Wireline Comp. Bur 2003) (delay of nearly two months deemed excessive).

⁸ *See, e.g., Request for Waiver by Center City Schools, Federal-State Joint Board on Universal Service, Changes to the Board of Directors of the National Exchange Carrier Association, Inc.*, File No. SLD-325719, CC Docket Nos. 96-45 and 97-21, Order, 17 FCC Rcd 22424 (Wireline Comp. Bur. 2003).